

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF MISSOURI  
WESTERN DIVISION**

KISSICK REDD, )  
                    )  
Plaintiff,       )  
                    )  
v.                   ) Case No. 05-0566-CV-W-FJG  
                    )  
ROBANDEE APPLE MARKET, et al.,       )  
                    )  
Defendants.       )  
                    )

**ORDER**

Pending before the Court is Plaintiff's Notice of Voluntary Dismissal without prejudice as to all defendants (Doc. No. 10). The Court notes that plaintiff cannot dismiss this case without consent of the Court under Fed. R. Civ. P. 41(a)(1) because defendant Robandee Apple Market has filed an answer to plaintiff's complaint. However, defendant Robandee Apple Market has filed no opposition to the pending notice of voluntary dismissal. Therefore, treating the notice of voluntary dismissal as a motion to dismiss under Fed. R. Civ. P. 41(a)(2), the Court will **GRANT** said motion (Doc. No. 10). Plaintiff's case against all defendants is **DISMISSED WITHOUT PREJUDICE**. Furthermore, defendant Robandee Apple Market's previously-filed motion to dismiss for lack of jurisdiction (Doc. No. 7) is **DENIED AS MOOT**.

**IT IS SO ORDERED.**

Date: September 15, 2005  
Kansas City, Missouri

**S/ FERNANDO J. GAITAN, JR.**  
Fernando J. Gaitan, Jr.  
United States District Judge